IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE NO. 1370 OF 2006
IN
MADRAS HIGH COURT CIVIL SUIT NO. 623 OF 1998
AND
ORIDINAL APPLICATION NO. 620 OF 1998
AND
APPLICATION NO. 3943 OF 1998

M/s.Star Trading Company. ...Plaintiff/
Applicant
in both Applications

V/s.

M/s.Technis Industries & Ors. ...Defendants
Respondents
in both Applications

Mr.H.M. Khan, Plaintiff present in person.
Mr.V.P. Shastri i/b. M/s. Raymond & Co. for Defendant Nos.1 and 2.
Ms.Madhu Hiraskar i/b. M/s.Chitnis Vaithy & Co. for Defendant No.3.

CORAM : SMT.R.S. DALVI, J.

DATED : JANAURY 18, 2007

P.C. :-

1. The proprietor of the plaintiff is present in person. Decree has been admittedly passed by the Madras High Court. Respondents have preferred an appeal. The respondents have been directed to deposit entire decretal amount in Madras High Court within three weeks

failing which the stay application taken out by the respondents was to stand dismissed. The order was passed on 2nd January, 2003. No part of the decretal amount has been deposited. The said petition, therefore, has been dismissed. Hence, the execution must proceed.

2. The decree holder has applied for notice to be issued upon the defendants in the suit/respondents in this application under Order XXXI Rule 37 of the CPC. The notice requires the defendants/respondents to show cause why they should not be committed to jail in execution of the decree passed by the Madras High Court on 22nd January, 2002. Defendant No.3 has not filed any affidavit-in-reply. Defendant No.2 has filed an affidavit stating that the appeal has been filed and an application for expediting it made and the appeal will be disposed of. Defendant No.2, accordingly, applies for time. Affidavit of defendant no.2 does not show cause why defendant no.2 should not be committed to civil prison for non-satisfaction of the decree of the Court of Madras which has been considered in the appeal

filed by him and in which the entire decretal amount has been ordered to be deposited. None of the defendants have shown cause to the notice under Order XXI Rule 37 of the CPC.

3. The notice, is therefore, made absolute. Execution to proceed.

4. Affidavit-in-reply tendered by defendant no.2 taken on record.

(Smt.R.S. Dalvi, J.)